



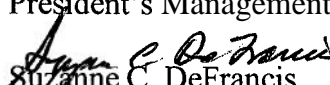
DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Assistant Secretary
for Public Affairs

Washington, D.C. 20201

AUG 1 2007

To: Clay Johnson, III
Chair
President's Management Council

From: 
Suzanne C. DeFrancis
Assistant Secretary for Public Affairs

Subject: Updated Status Report on HHS FOIA Improvement Plan Deficiencies in
Implementation of Executive Order 13392, "Improving Agency
Disclosure of Information"

The HHS achieved the great majority of its goals as established in its FOIA Improvement Plan. In accordance with the Attorney General's recommendations in his second report to the President on June 1, 2007, and guidance issued by the Department of Justice, the following is an updated status report on the HHS FOIA Improvement Plan deficiencies not corrected prior to February 1, 2007, and reported in the HHS FY 2006 Annual FOIA Report. Each deficiency is addressed within the area to which the deficiency milestone relates.

1. FOIA Improvement Plan area to which this deficient milestone relates.

Reduce Backlog

2. Deficient Milestone and the Original Target Date From the FOIA Improvement Plan.

The Department established as its goal the reduction of the current backlog by 5 percent in 2006.

3. Steps taken to correct the deficiency.

As discussed in the FY 2006 Annual Report, the HHS significantly increased the number of FOIA requests closed by 35,177 in FY 2006. Nevertheless, the number of new FOIA requests increased by 35,780. Therefore, the HHS actually experienced a modest increase in the Department's backlog.

As the Department cannot reliably predict the number of new FOIA requests submitted to the Department in the future, the Department committed, as documented in its FY 2006 Annual Report, to reexamine its goal in the area of backlog reduction by May 15, 2007. The reexamination was accomplished on March 15, 2007; the Secretary signed an amendment to the HHS FOIA Improvement Plan to modify the goal of achieving a 5% reduction in FY 2007 in the backlogged requests received by HHS prior to FY 2007.

4. Steps to be taken to correct the deficiency.

The HHS anticipates reviewing needed steps related to the establishment of FOIA request backlog reduction goals for FY 2008, FY 2009, and FY 2010, as required to be established and posted online by November 1, 2007.

1. FOIA Improvement Plan area to which this deficient milestone relates.

Improve Processing

2. Deficient milestone and the original target date from the FOIA Improvement Plan.

One goal was for the Food and Drug Administration to develop a checklist by December 31, 2006, for use by its component FOIA offices, in order to improve the processing of incoming FOIA requests by ensuring proper routing, consistency in assigning requests into particular tracks when multi-track systems are used, and enhance the use of FDA FRSC in providing previously released records.

3. Steps taken to correct the deficiency.

By December 31, 2006, the draft final checklist had been prepared and circulated to the FDA Freedom of Information Council for review and approval. The checklist was then appended to the revised Staff Manual Guide, which is the FDA's standard method of issuing procedural instructions. The checklist and revised FOI Staff Manual Guide was completed May 29, 2007.

4. Steps taken to correct the deficiency.

No additional steps are needed.

1. FOIA Improvement Plan area to which this deficient milestone relates.

Improve Public Awareness

2. Deficient milestone and the original target date from the FOIA Improvement Plan.

The FOI/Privacy Act Division, Office of the Secretary, was to develop, issue for public comment, and finalize a revised HHS FOIA regulation. This was to have been published in the Federal Register for public comment by December 2006, and finalized by December 2008.

Steps taken to correct the deficiency.

There was a delay in the work on this work, as discussed in the HHS FY 2006 Annual FOIA Report, due to FOIA litigation and other administrative and operational FOIA processing workload.

These litigation, administrative, and operational demands have continued and increased. Due to continued FOIA request processing, appeals, FOIA policy, and Privacy Act policy and Privacy Act request demands on the OS FRSC additional modifications are now anticipated to be made to the initial draft, which was previously circulated Departmentwide for review. The changes will include documenting the possibility of the authorization certain Office of the Secretary organizational components that are now serviced by the OS FRSC to establish full-service FOIA Requester Service Centers in order to respond directly to FOIA requesters. This would, in the long run, decrease the workload demands on the FOI/Privacy Acts Division, which also serves as the OS FRSC.

4. Steps to be taken to correct the deficiency.

The work that remains to be done, therefore, includes additional review and editing of the draft, which is expected to be accomplished by December 31, 2007. Therefore, I now anticipate that the Notice of Proposed Rulemaking to revise the Department's FOIA regulations will be published by January 2008. I continue to anticipate final implementation by December 2008.